

NOTICE OF INDEPENDENT REVIEW DETERMINATION

MDR Tracking Number: M2-04-0661-01
IRO Certificate Number: 5259

January 26, 2004

An independent review of the above-referenced case has been completed by a medical physician board certified in neurosurgery. The appropriateness of setting and medical necessity of proposed or rendered services is determined by the application of medical screening criteria published by ____, or by the application of medical screening criteria and protocols formally established by practicing physicians. All available clinical information, the medical necessity guidelines and the special circumstances of said case was considered in making the determination.

The independent review determination and reasons for the determination, including the clinical basis for the determination, is as follows:

See Attached Physician Determination

____ hereby certifies that the reviewing physician is on Texas Workers' Compensation Commission Approved Doctor List (ADL). Additionally, said physician has certified that no known conflicts of interest exist between him and any of the treating physicians or providers or any of the physicians or providers who reviewed the case for determination prior to referral to ____.

CLINICAL HISTORY

This is a 38-year-old woman who injured herself in _____. Apparently she was working for _____ and was lifting up a suitcase which she felt was quite light but turned out to be heavier than anticipated. She felt a snap in her low back and immediate low back pain. She was seen in the _____ the following day and was given the diagnosis of low back strain. She was given some non-steroidal anti-inflammatory agents and pain medicine. She unfortunately did not improve and was referred to _____ and _____. She was prescribed a course of physical therapy which she performed, apparently. After two months' worth of conservative management and no improvement in the clinical situation, _____ ordered an MRI scan which was read as essentially normal, however, there was an indication of decreased signal intensity at the L5 disc. Physical therapy was continued. The patient ultimately was released back to physical activity a little less than four months after the injury. She was able to return to work for one day, had an exacerbation of her low back pain and returned to _____. She was seen by _____ who recommended that she be referred for pain management and restarted physical therapy.

In pain management she was evaluated by ___ who recommended lumbar epidural injections. These were performed on ___, just about six months after her injury. Her pain had been reduced, however, she still was not functional and therefore she was referred for a spine evaluation. The spine surgeon recommended that she have an IDET procedure. Therefore, she was referred to ___ who, after consultation, recommended a discogram in anticipation of a percutaneous nucleoplasty and decompression. The discogram was performed on ___ or 11 months after her injury and it showed marked concordant pain at L5 with abnormalities within the disc itself. ___ then performed a nucleoplasty with decompression and the patient was enrolled in a pain management program. About a year after her injury she was completing her 20 sessions of chronic pain management and still had not returned to normal. She continued to be on several different medications despite the fact that she had completed a pain management program. It was recommended that at this point she needed to be weaned from her medications, including the narcotics. A second MRI was reported 18 months after her injury and again was noted to be within normal limits. However, at this point the patient is now complaining of signs and symptoms of allodynia and hypersensitivity in her legs, the etiology of which has not been fully elucidated, however, suggestions have been made that it was related to the earlier discogram or possibly the nucleoplasty and decompression. She was then referred to ___ for another surgical opinion. Just about the same time the patient was evaluated for an MMI. Inconsistencies were found in ___ clinical findings and clinical symptoms and a 0% whole body impairment rating was given. ___, however, reexamined the patient and felt that she had developed reflex sympathetic dystrophy and he recommended bilateral sympathetic blocks, indicating that surgery was not indicated at that point. Based on ___ recommendations, ___ in September of 2002 did an L5 epidural block with no substantial improvement in the patient's symptoms. From this point forward the patient is described by ___ and ___ that she has developed a complex regional pain syndrome and physical exams by ___ have started to document changes in the ability to sweat, allodynia is described as is hypesthesias. ___ had recommended an anterior lumbar interbody fusion. This was denied because the previous discogram was too remote, so a second discogram was performed last fall and this too did find concordant pain at L5 with substantial changes within the disc space itself. Prior to her being taken to the OR, unfortunately she was admitted to the hospital for reasons that are not entirely clear. In that hospitalization she fractured her right ankle and had apparently a 20% compression fracture at L1. Now as the situation has improved, ___ has recommended that the patient have an anterior lumbar interbody fusion.

REQUESTED SERVICE(S)

L5 anterior lumbar interbody fusion with posterior instrumentation.

DECISION

It is reasonable to proceed with a surgical stabilization of this patient.

RATIONALE/BASIS FOR DECISION

This is a difficult case. She is being followed closely by an orthopedic surgeon and a pain management physician whose descriptors of the patient as well as physical exams have differed from the descriptors used by the independent reviewers, one of which performed a physical exam upon the patient. As the psychological make-up of a patient is so important when one is considering back surgery for low back pain, it is hard to make a determination as to who is correct. The psychological evaluation of this patient was reviewed in February of 2002 which does not bring up the possibility that she is malingering. The objective data, which is really ultimately what we have to look at, shows indeed that she does have concordant pain on discogram at L5. This study was repeated and similar findings were obtained both times. This is fairly compelling and as objective as any investigative procedure can be. Therefore, it is reasonable to proceed on with a surgical stabilization of her L5 disc space so long as she has been informed and is completely aware that this procedure will have little positive effect on her complex regional pain syndrome.

YOUR RIGHT TO REQUEST A HEARING

Either party to this medical dispute may disagree with all or part of the decision and has a right to request a hearing.

If disputing a spinal surgery prospective decision a request for a hearing must be in writing, and it must be received by the TWCC Chief Clerk of Proceedings within **10** (ten) calendar days of your receipt of this decision (20 Tex. Admin. Code 142.5©).

If disputing other prospective medical necessity (preauthorization) decisions a request for a hearing must be in writing, and it must be received by the TWCC Chief Clerk of Proceedings within **20** (twenty) calendar days of your receipt of this decision (28 Tex. Admin. Code 148.3).

This decision is deemed received by you 5 (five) days after it was mailed or the date of fax (28 Tex. Admin. Code 102.4(h) or 102.5(d)). A request for a hearing and a **copy of this decision** must be sent to:

Chief Clerk of Proceedings/Appeals Clerk
Texas Workers' Compensation Commission
P.O. Box 17787
Austin, Texas 78744

Or fax the request to (512) 804-4011. A copy of this decision must be attached to the request.

The party appealing the decision shall deliver a copy of its written request for a hearing to the opposing party involved in the dispute.

In accordance with Commission Rule 102.4(h), I hereby verify that a copy of this Independent Review Organization (IRO) Decision was sent to the carrier, the requestor and claimant via facsimile or U.S. Postal Service from the office of the IRO on this 26th day of January 2004.